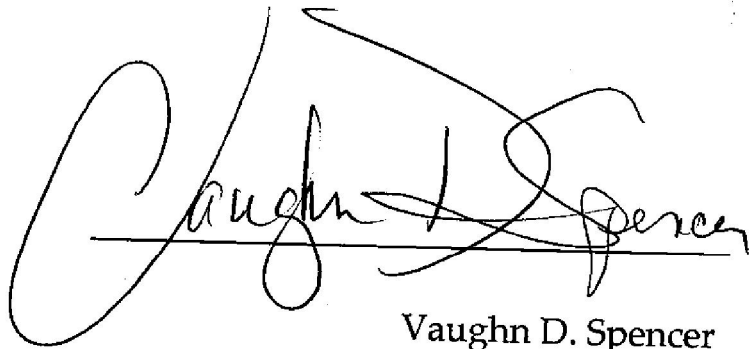


RESOLUTION NO. 137-2007

THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS
FOLLOWS:

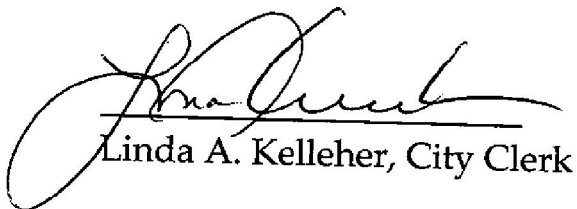
Denying the Conditional Use application and setting additional
conditions, as attached, for 1217 Moss Street, owner/applicant
Thomas R. Miller.

Adopted by Council October 8, 2007



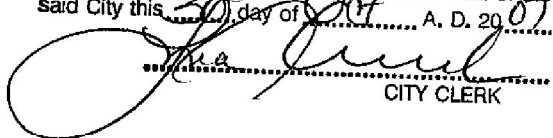
Vaughn D. Spencer
President of Council

Attest:



Linda A. Kelleher, City Clerk

I, LINDA A. KELLEHER, City Clerk of the City
of Reading, Pa., do hereby certify, that the fore-
going is a true and correct copy of the original
Resolution passed by the Council of the City of
Reading, on the 8th day of October
A. D. 20 07. Witness my hand and seal of the
said City this 30th day of Oct A. D. 20 07.



CITY CLERK

IN RE: CONDITIONAL USE APPEAL OF : BEFORE THE CITY COUNCIL OF THE
THOMAS R. MILLER RELATIVE TO A : CITY OF READING, PENNSYLVANIA
PROPERTY LOCATED 1217 MOSS :
STREET, CITY OF READING, BERKS : APPEAL ON REMAND FROM THE
COUNTY, PENNSYLVANIA : COURT OF COMMON PLEAS OF BERKS
: COUNTY

DECISION OF CITY COUNCIL OF THE CITY OF READING

AND NOW, this 29th day of October, 2007, a hearing having been held on August 28, 2007, upon the application of Thomas R. Miller, notice of such hearing having been first sent and advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code and the City of Reading Zoning Ordinance, as amended, City Council of the City of Reading renders the following decision:

FINDINGS OF FACT

1. Applicant is Thomas R. Miller, an adult individual with a principal place of business located at 1217 Moss Street, City of Reading, Berks County, Pennsylvania (hereinafter referred to as the "Applicant").
2. The Applicant seeks conditional use approval for property located 1217 Moss Street, City of Reading, Berks County, Pennsylvania (hereinafter referred to as the "Subject Property").
3. The Subject Property is located in the R-3 Residential Zoning District as that term and district is defined by the Zoning Ordinance of the City of Reading, adopted June 2001, as amended (hereinafter referred to as the "Zoning Ordinance").
4. A hearing on this matter was held on August 28, 2007, commencing at 5:15 p.m., prevailing time, in City Council Chambers, City Hall, 815 Washington Street, City of Reading, Berks County, Pennsylvania.
5. Applicant was represented by Attorney Joseph Haines.
6. Applicant purchased the Subject Property and testified that it consists of a large building.

The building was previously used as a fire company social quarters and had been used for other purposes over the last fifty years.

7. Applicant testified that when he purchased the Subject Property there were four (4) apartment units located at the property. In addition, Applicant testified there is a vacant floor which has enough square footage to accommodate up to five (5) apartment units.

8. Applicant testified that it appeared that this vacant floor at one time contained apartments.

9. Applicant testified that he would construct five (5) efficiency apartments and that the apartments would meet all the dimensional requirements set forth in the Zoning Ordinance.

10. Applicant testified that the basement area of the Subject Property would be used for storage and/or an office by him.

11. Applicant's requested relief is under Section 27-1203.4 and 27-1201 of the Zoning Ordinance.

12. Section 27-1201 generally sets forth conditions for conditional uses.

13. Section 27-1203.4 sets forth that conversions of single family attached or detached dwelling units and two family attached or detached dwelling units may be converted to more intense residential uses in the R-3 and R-O residential zoning districts provided that the following requirements are met:

- a. a site plan must be provided;
- b. the conversion shall have the minimum floor area, inter alia, efficiency or studio 400 sq. ft.;
- c. for each dwelling unit there should be a minimum of 1.5 off-street parking spaces.
- d. the plumbing, heating and electrical equipment and facilities are adequate and appropriate for the proposed use.

14. Applicant provided a site plan.
15. Applicant provided a plan which would evidence that there is sufficient square footage to accommodate efficiency apartments for the proposed five (5) additional units.
16. Applicant presented evidence that it has on-site parking and would lease additional off-site parking from the Seventh Day Adventist Church to provide 1.5 parking units for the proposed nine (9) apartments. Applicant shall provide fourteen (14) parking spaces.
17. Applicant agreed to provide a written lease permitting parking at the Seventh Day Adventist parking lot twenty-four (24) hours per day, seven days per week.
18. Applicant agreed the lease would require both the lessor and lessee to notify the City Clerk of the City of Reading if the lease were to cease and to make such requirement binding upon their heirs, successors and assigns.
19. Applicant agreed to require all tenants at the Subject Property to utilize the off-street parking spaces and failure to utilize the spaces would constitute a default under the residential lease(s).
20. Applicant agreed to provide a parking schematic for the on-site parking and to confirm ownership of this parking. If Applicant is unable to prove ownership, Applicant would lease sufficient off-street parking to accommodate the nine (9) apartments.
21. Applicant must also satisfy Section 27-1201 of the Zoning Ordinance which sets forth criteria for special exception and/or conditional use permit. No conditional or special exception use shall be permitted if it:
 - a. substantially increases traffic congestion in the streets;
 - b. adversely impacts public safety;
 - c. creates an undue concentration of population;
 - d. impairs an adequate supply of light and air to adjacent property;
 - e. unduly burdens public facilities and infrastructure;
 - f. is detrimental to the appropriate use of adjacent property;

g. endangers the safety of persons or property by improper location and design of facilities for ingress or regress;

h. otherwise adversely affects the public health, safety, morals or general welfare.

22. City Council of the City of Reading specifically finds that the proposed use of placing five (5) additional dwelling units at the Subject Property would substantially increase traffic congestion on the streets because residents most likely will not use the off-street parking that has been provided for these additional requested units.

23. City Council of the City of Reading specifically finds that the proposed additional five (5) dwelling units would adversely impact public safety due to an unusually high concentration of people in one building within a residential district.

24. City Council of the City of Reading specifically finds that the proposed additional five (5) dwelling units create an undue concentration of population in an area that already has a significant concentration of population.

25. City Council of the City of Reading specifically finds that the proposed additional dwelling units burden public infrastructure in that streets may be more congested due to additional parking, which could negatively impact snow plowing and the safe passage of emergency vehicles.

26. City Council of the City of Reading specifically finds that the proposed use would be detrimental to the health, safety, morale and general welfare of the neighborhood in that a large intense population in one building in an already highly populated area would be detrimental to neighboring property values and the quiet peace and enjoyment of the neighborhood.

DISCUSSION

Applicant seeks conditional use relief from Sections 27-1201 and 27-1203.4 of the Zoning Ordinance to convert a large structure from a four (4) unit apartment house to a nine (9) unit apartment house. In order to accomplish the same, Applicant must satisfy the general requirements of conditional

uses as well as the specific conversion requirements. Despite Applicant's evidence regarding off-street parking, City Council of the City of Reading finds as a fact and concludes as a matter of law that five (5) additional apartments will cause increased traffic congestion and will be a detriment to the public health, safety and welfare.

CONCLUSIONS OF LAW

1. The Applicant is Thomas R. Miller, an adult individual with a principal place of business located at 1217 Moss Street, City of Reading, Berks County, Pennsylvania.
2. Applicant seeks conditional use approval for property located 1217 Moss Street, City of Reading, Berks County, Pennsylvania.
3. The Subject Property is located in the R-3 Zoning District.
4. Applicant specifically requests relief from Sections 27-1201 and 27-1203.4 of the Zoning Ordinance to convert a structure from a four (4) unit apartment house to a nine (9) unit apartment house.
5. In order to specifically satisfy the requirements, Applicant must meet the following requirements:
 - a. a site plan must be provided;
 - b. the conversion shall have the minimum floor area, inter alia efficiency or studio 400 sq. ft.;
 - c. for each dwelling unit there should be a minimum of 1.5 off-street parking spaces.
 - d. the plumbing, heating and electrical equipment and facilities are adequate and appropriate for the proposed use.
6. Based upon the findings of fact which are incorporated herein as though fully set forth at length, the City Council of the City of Reading hereby concludes as a matter of law that the Applicant

has not met his burden of proof and persuasion with respect to Sections 27-1201 and 27-1203.4 of the Zoning Ordinance.

7. Based upon the findings of fact and conclusions of law as set forth herein, the City Council of the City of Reading hereby denies Applicant's requested relief.

The decision of City Council is by a vote of 7 to 0.